



CITY OF MIAMI SPRINGS, FLORIDA

The **Board of Adjustment** met in Regular Session at 7:00 p.m., on Monday, May 7, 2012 in the Council Chambers at City Hall.

1) Call to Order/Roll Call

The meeting was called to order at 7:08 p.m.

The following were present:

Chairman Manuel Pérez-Vichot
Ernie Aloma
Ariana Fajardo
Alternate Bill Tallman

Absent:

Kevin Berounsky
Vice Chairman Francisco Fernández

Also present:

City Attorney Jan K. Seiden
City Planner Jim H. Holland
Board Secretary Elora R. Sakal

2) Approval of Minutes

Minutes of the February 6, 2012 meeting were approved as written.

Board member Tallman moved to approve the minutes. Board member Fajardo seconded the motion which was carried unanimously on voice vote.

Chairman Pérez-Vichot wanted to congratulate Board member Fajardo for being appointed as a Circuit Court Judge.

Board member Fajardo explained that she has turned in her resignation from the Board of Adjustment/Zoning and Planning Board effective at the end of the month.

3) **Old Business: None**

4) **New Business:**

A) **CASE # 03-V-12**

Julio D. Somarriba

661 Falcon Avenue

Zoning: R-1B Single Family

Lot Size: 75 ft. x 135 ft.

Applicant is seeking a variance from Code Section 150-017 Recreational Vehicles (B) *Parking and Storage*: To store an RV in the side yard of their property.

City Planner Holland stated that there were no letters of support or opposition from the neighbors. This request is to permit the parking of a thirty foot boat and trailer in the east side yard of this particular property. He said that the matter came before the board in May of 2010 and a copy of the minutes for that meeting are included in the packet.

City Planner Holland noted that the motion for the variance at that time was denied and the applicant who is the present applicant did not appeal the decision of the board to Council. There was a condition with the denial that the concrete slab be extended to the north to permit the parking of the boat in the rear yard. The applicant complied with the condition in the form of concrete and paver ribbons that extend to a newly constructed wood fence on the north property line.

City Planner Holland commented that the situation now is that there is a projecting eave on an addition to the home that the homeowner is hitting with his boat when he attempts to get it into the rear yard. There are no obstructions in the rear yard that would permit the boat to be parked there.

Chairman Pérez–Vichot asked the applicant if he could access the ribbon pavers coming from the back alley and applicant Julio Somarriba replied that he cannot.

Applicant Somarriba distributed surveys to the board. He said that his complaint during the first variance hearing was that his home is offset on the property. He mentioned that if he tries to back in the boat, he will break his mirror or hit the corner of the house.

Chairman Pérez–Vichot noted that the survey that was distributed by the applicant shows that the wood fence is approximately seven feet inside of his property line.

Discussion ensued regarding how the applicant's wood fence is inside of his property line and how the surveyor could have made a mistake when drawing the survey.

Applicant Somarriba clarified that he does not have enough room to back in the boat from the alley.

Board member Aloma commented that it is difficult to back up the boat when the house is not aligned.

City Planner Holland noted that the boat is on a triple axle trailer which makes the maneuvering more difficult. He believes that the issue with the survey had been taken care of. There is a reduction of the plat in the upper right hand corner of the original survey in the packet. It appears that the alley was not platted and there were two eight foot utility easements.

Chairman Pérez–Vichot asked the applicant if he has the boat moved back as far back as possible and applicant Somarriba responded that he indeed has the boat moved as far back as possible.

Chairman Pérez–Vichot asked the applicant if there was absolutely no way that coming in from the alley he could turn from the alley into the backyard and applicant Somarriba replied that he cannot turn from the alley into the backyard because there is not enough width and he has an avocado tree in the middle of the yard as well.

Chairman Pérez–Vichot asked the applicant if the boat can be moved all the way back to the edge of the home and Applicant Somarriba responded that he can move it back to approximately four feet before the edge of the home.

Board member Fajardo stated that the first time the applicant came before the board he told the board that the width of the boat was 9.5 feet. She said that there is almost thirteen feet at the most narrow point of the home.

Chairman Pérez–Vichot explained that the thirteen feet did not include the overhang on the home.

Board member Fajardo replied that the overhang did not interfere with the boat and was nowhere near the boat.

Board member Aloma commented to Board member Fajardo that there is a hedge and Board member Fajardo replied that the applicant can trim the hedge so that it does not take up space.

City Attorney Seiden asked how thick the hedge was and City Planner Holland replied that it is the neighbor's hedge.

Applicant Somarriba stated that he trims the hedge right against the chain link fence.

City Attorney Seiden clarified that Board member Fajardo is having an issue with one of the pictures in the packet. He noted that there is one picture in which he can see that the boat is directly up against the hedge.

Board member Fajardo explained that it is a big boat and if someone has an RV they should be able to afford to keep them and this size boat in a yard is not something that the board has ever dealt with in the past.

Applicant Somarriba said that the board has indeed dealt with this issue in the past and the previous objection he received from the board was because his boat did not look right; not because of its width or length. He mentioned that he had pictures of other residences that have boats in their side yard and that his boat in the side yard looked better than the boats in the photos.

Chairman Pérez-Vichot stated that the condition in the previous variance was if the applicant could move the boat all the way back and Applicant Somarriba replied that he accepted that condition and spent the funds to be able to move the boat into the rear yard.

Chairman Pérez-Vichot explained that the applicant is now saying that he cannot move the boat back and as Board member Fajardo pointed out, there is approximately thirteen feet from the back corner of the house to the property line and the boat is 8'6", which would give the applicant approximately a four foot clearance.

Board member Tallman clarified that the boat is 9'6".

Board member Aloma asked if the room that the boat abuts to has any other windows or doors on another side and Applicant Somarriba responded that there are other windows and doors on the other side of the room.

Board member Aloma mentioned that if the boat was moved back, then the door would be blocked and it cannot be used, but there are other doors that can be used on the other side of the home.

Board member Aloma noted that the bumpers on the trailer are too high and are probably getting in the way.

Board member Fajardo asked why the applicant cannot move the trailer straight back into the rear yard and Applicant Somarriba replied that it is too difficult because the boat is on a triple axel trailer.

Board member Fajardo felt that a boat of that size should not be in a home of Miami Springs and **moved to deny the variance because, based on the survey, she believes the boat can be moved back. Board member Tallman seconded the motion, which was carried 3-1 on roll call vote with Board member Aloma casting the dissenting vote.**

City Attorney Seiden advised the applicant that he is allowed to appeal the decision. He reminded the applicant of the ten-day appeal period and advised him to stay in touch the City Planner.

B) CASE # 04-V-12
Richard A. Mikluscak
208 Carlisle Drive
Zoning : R-1 Single Family
Lot Size : 60 ft. x 127 ft.

Applicant is seeking a variance from Code Section 150-017 Recreational Vehicles (B) *Parking and Storage*: To store an RV in the side yard of their property.

City Planner Holland explained that the variance is to permit the parking of a utility trailer in the west side yard. The trailer is approximately six feet wide, fifteen feet long and seven feet in height and is barely discernible from the street. The rear yard is not accessible from the alley and would require the removal of a cluster of palms. He noted that there are other outdoor obstructions such as a brick outdoor barbeque pit.

City Planner Holland said that the only opportunity would be to remove the palms from the southwest corner of the property and provide a gate at that location. To the south of the trailer there is a non-permanent canopy where the applicant has various materials stored and immediately south of the canopy is a palm tree. It is possible that the trailer could be moved farther to the south but would require the removal of the canopy. He noted that he recommends the approval of the variance and did not receive any letters of support or objection.

Chairman Pérez-Vichot asked the applicant if the canopy can be moved behind the palm tree and Applicant Mikluscak replied that the canopy is temporary.

Chairman Pérez-Vichot asked if the trailer could be moved closer to the palm tree and Applicant Mikluscak responded that it could be moved a little bit closer but the driveway ends at the back of the home and he moves the trailer himself.

Applicant Mikluscak explained that, as he stated in his application, it is difficult for him to use his utility trailer if he cannot move it by himself. If he puts it in the back yard on the grass then he will not be able to move it by himself.

Chairman Pérez-Vichot said that the survey shows that the driveway ends more or less at the end of the house and there is approximately another ten feet that he can move the trailer back.

Applicant Mikluscak commented that there is a slight drop off of the concrete that he would have to repave or re-do the stepping stones that are currently there.

City Planner Holland clarified that if the Board is suggesting moving the canopy to provide additional parking space in the side yard the trailer would still be in the side yard.

Chairman Pérez-Vichot explained that the further back the trailer can be moved, the less visible it would be and that has been the policy.

Applicant Mikluscak stated that he purchased the home in 1998 and one of the attractive features was that the driveway extended all the way down the side of the home and he feels that it does not make a lot of sense to drag a utility trailer that is virtually invisible from the street behind a six foot privacy fence. He mentioned that he would have no issue installing a seven foot fence to completely hide the trailer, but it would then be in violation of another provision of the code.

Applicant Mikluscak said that to the extent that he cannot use his own property to store his own property means that he does not really own the property and the City does. He asked that he be granted reasonable use of his property. He commented that even though he sat on this board for a couple of years, the City puts their citizens through a lot of grief, time and effort in order to get permission to use their property for what would be a reasonable purpose.

Applicant Mikluscak explained that City Planner Holland mentioned that approximately 95% of these variances are granted and he asked why the City would put citizens through this type of situation if the majority of the variances are granted.

Chairman Pérez-Vichot stated that Mr. Mikluscak has been on this board and is aware of the procedures of placing an RV in a garage, rear yard, and in some cases the side yard.

Board member Aloma asked if the trailer could be moved further back and Applicant Mikluscak replied that it is the furthest that he can conveniently move the trailer back.

Board member Tallman reviewed the survey with the applicant. The palm tree was placed in the middle and he was not sure if the survey was drawn to scale and Applicant Mikluscak responded that the palm tree is nearly in the middle and he could not maneuver the trailer beyond the palm tree.

Board member Tallman asked how the applicant towed the trailer and Applicant Mikluscak replied that he tows the trailer with a truck.

Board member Tallman explained that he could back the trailer in and then maneuver it.

Applicant Mikluscak said that he would not want to put the trailer on his grass when he has a driveway that he can put it on.

City Attorney Seiden clarified that if the applicant moved the temporary canopy behind the palm tree, he could move the trailer back to where the pavement ends which would be approximately five feet according to the survey and pictures. The policy has always been that if the RV cannot be placed in the back yard, it has to be as far back as possible on the side yard.

Board member Aloma clarified that Applicant Mikluscak previously stated that because the driveway slopes down towards the back yard, if he moved the trailer any further back he would not be able to physically maneuver it.

Applicant Mikluscak said that he would not be able to maneuver it with the tongue of the trailer where the pavement ends and he would be limited to backing it into that area with the truck.

Board member Tallman stated that the Applicant would have the truck to be able to pull the trailer back out again. The situation is a hardship being an impossibility and a hardship being a nuisance.

Applicant Mikluscak asked that he be granted permission to park his trailer in his side yard in his driveway and hopes that it is acceptable.

Board member Tallman explained that consideration is not the issue and he is very sympathetic to the situation. His concern is that having a standard of clearly definable hardship is the only thing that permits the board to grant a variance.

Board member Aloma moved to approve the variance with no conditions. The motion died due to lack of a second.

Board member Fajardo moved to approve that the applicant is able to keep the RV in his side yard with the condition that he move it back as far possible to the end of the concrete slab. The motion died due to lack of a second.

Board member Tallman moved to deny the variance. The motion died due to lack of a second.

Board member Aloma asked who would be in charge of making sure that the applicant moves the trailer as far back as possible and City Attorney Seiden replied that the City Planner would make the determination.

City Attorney Seiden noted that Board member Fajardo's motion was to move the trailer as far to the end of the concrete slab as possible and if that includes moving the canopy then the canopy would be moved as well. He clarified for Board member Tallman that City Planner Holland has visited the property and has said on the record that he does not believe the trailer can be placed in the back yard.

Board member Aloma reiterated that whether the trailer is moved ten feet back or five feet back, it will still be visible.

Board member Aloma agreed to second the motion, as re-stated by the City Attorney, to approve so long as City Planner Holland determines that the applicant moved the RV as far back as he could.

City Attorney Seiden commented that Board member Fajardo's motion was consistent with virtually every RV motion that the Board has done for as long as he can remember.

Board member Aloma mentioned that along with the trailer is a tongue that makes it an extra four feet in length.

City Attorney Seiden suggested that Board member Aloma could ask that the motion be amended to say that the tongue of the trailer does not go any further than the end of the concrete slab.

City Attorney Seiden clarified that the motion is to grant the variance as long as the RV is pushed back to the edge of the pavement so that the tongue stops at the end of the pavement. If that necessitates the relocation of the temporary canopy then so be it.

Board member Tallman asked if it would make sense to back the trailer in and have the tongue sit on the concrete and Board member Aloma replied that he would have an issue with that.

Board member Fajardo clarified for Chairman Pérez-Vichot that the applicant pulls in the trailer manually leaving the tongue facing towards the back yard.

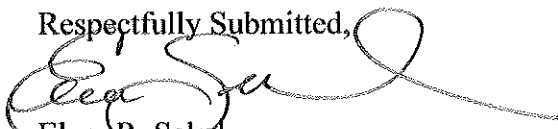
The motion was carried 4-0 on roll call vote.

5) Other Business: None

6) Adjournment

There was no further business to be discussed and the meeting was adjourned at 7:51 p.m.

Respectfully Submitted,



Elera R. Sakal
Board Secretary

Approved as written during meeting of: September 5, 2012

Words ~~-stricken through-~~ have been deleted. Underscored words represent changes. All other words remain unchanged.

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